

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ALMOND ENTERPRISES, LLC	§	
	§	
v.	§	CIVIL ACTION NO. 4:19-cv-3807
	§	
TRAVELERS CASUALTY INSURANCE	§	JURY DEMANDED
COMPANY OF AMERICA	§	
	§	

**DEFENDANT TRAVELERS CASUALTY INSURANCE COMPANY  
OF AMERICA’S NOTICE OF REMOVAL**

Defendant Travelers Casualty Insurance Company of America (“Travelers”) files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as follows:

**I. NATURE OF THE SUIT**

This lawsuit arises from a claim made by Plaintiff under a commercial property insurance policy issued by Defendant to Plaintiff. Plaintiff filed this lawsuit alleging, breach of contract, breach of warranty, misrepresentation, unspecified violations of Texas Insurance Code, and unspecified violations of the Texas DTPA, enhanced statutory damages, and attorney fees.

**II. PROCEDURAL BACKGROUND**

1. On July 25, 2019, Plaintiff filed an Original Petition initiating an action against Defendant in the 152<sup>nd</sup> Judicial District Court of Harris County, Texas, bearing Cause No. 2019-50840 (“the State Court Action”). **See Exhibit D.** A jury demand was *not* made in the State Court Action.

2. Defendant was served with the Original Petition in the State Court Action via certified mail directed to its registered agent on September 16, 2019.

3. This Notice of Removal is timely filed within the 30-day statutory time period for removal under 28 U.S.C. § 1446(b)(1), being filed within 30 days after Defendant's receipt of service of process.

4. This Notice of Removal is also timely filed within one year after commencement of the State Court Action, in compliance with 28 U.S.C. § 1446(c)(1).

### **III. BASIS FOR REMOVAL**

5. This Court has original diversity jurisdiction under 28 U.S.C. § 1332 over this civil action, and the action may be removed pursuant to 28 U.S.C. § 1441(b), as it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. **Plaintiff is a Texas citizen.** Plaintiff made no allegation in the State Court Action regarding its citizenship. However, the members of Almond Enterprises, LLC, as disclosed in public records, are identified as follows: Muthaffar M. "Mark" Omran: 9200 Main Street, Houston, Texas 77025.

7. **Travelers is not a Texas citizen.** Defendant Travelers is a citizen of Connecticut and has its principal place of business in Hartford, Connecticut. Therefore, Travelers is a citizen of Connecticut for purposes of diversity jurisdiction.

8. **The amount in controversy exceeds \$75,000.** Plaintiff's Original Petition is silent as to the amount of monetary damages sought and fails to comply with TEX. R. CIV. P. 47, which requires the petition to identify the amount of monetary relief sought. However, Plaintiff's pre-suit submissions in conjunction with its insurance claim demonstrate that the value of the disputed claim, together with the enhanced damages and attorney fees sought, exceeds \$75,000. **See Exhibit E.** Specifically, as shown by the attached Exhibit E, Plaintiff submitted a

claim for \$67,876.67 in replacement costs. Plaintiff has also pleaded claims for treble damages and attorney fees. Therefore, the total amount in controversy exceeds \$75,000, this Court has subject-matter jurisdiction under 28 U.S.C. §1332, and this removal is proper.

9. Removal to the Southern District of Texas, Houston Division is proper because the state court action is pending in Harris County, which is part of the Southern District.

10. In compliance with 28 U.S.C. § 1446(a) and Local Rule 81, Defendant has filed with this Notice of Removal (a) all executed process, (b) all pleadings asserting causes of action, (c) all orders signed by the state court judge, (d) the state court docket sheet, (e) an index of matters being filed, and (f) a list of counsel of record and the parties represented. **See attached Exhibits A-D.** In compliance with Local Rule 81, which requires that *only* the listed documents be attached, Defendant has not attached any other documents to this Notice of Removal. Defendant will separately file any Corporate Disclosure which may be required in compliance with FED. R. CIV. P. 7.1.

11. In compliance with 28 U.S.C. § 1446(d), Defendant hereby certifies that it will promptly notify the clerk of the court in the State Court Action and all adverse parties of this removal.

#### **IV. CONCLUSION AND PRAYER**

12. The basis for this removal and this Court's jurisdiction is diversity of citizenship under 28 U.S.C. §1332 because Plaintiff and all its members are citizens of Texas and Travelers is a citizen of Connecticut. For the reasons stated in this Notice, the Court may exercise diversity jurisdiction over this lawsuit. The amount in controversy, based on documents from the underlying insurance claim, exceeds \$75,000, exclusive of interest and costs. As such, this

removal is proper under 28 U.S.C. §1441. On these grounds, Defendant hereby removes the referenced State Court Action to this Court.

13. Defendant demands a jury in this removed action.

14. THEREFORE, Defendant Travelers respectfully requests that the above-entitled action be removed from the 152<sup>nd</sup> District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.

By: /s/ Melinda R. Burke

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**ATTORNEY-IN-CHARGE FOR DEFENDANT  
TRAVELERS CASUALTY INSURANCE  
COMPANY OF AMERICA**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to opposing counsel in accordance with the Federal Rules of Civil Procedure on October 3, 2019.

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/s/ Melinda R. Burke  
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